

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR - LEGAL UNIT
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September 13, 1999

Kathleen M. Gonzales
Assistant City Attorney
City of Riverside
3900 Main Street
Riverside, CA 92522

Re: Public Works Case #99-023
Orangecrest Community Park
City of Riverside

Dear Ms. Gonzales:


This letter constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above-referenced project under the California prevailing wage laws, and is made pursuant to Title 8 California Code of Regulations (C.C.R.) section 16001(a). Based upon my analysis of the relevant documents and facts presented, I have determined that the construction of the Orangecrest Community Park in the City of Riverside is a public works within the meaning of Labor Code section 1720(a).

The McMillin Companies ("McMillin") is a land owner and developer of portions of the Orangecrest Specific Plan area in Riverside. In conjunction with the development of the Orangecrest community and as a subdivision tract map condition, Riverside and McMillin have entered into an agreement for the construction of Orangecrest Community Park. Under the terms of the agreement, McMillin and other developers in the specific plan area must pay to the City an impact fee of \$ 1,616 per residential tract unit at the time the building permits issue. The impact fees are deposited in a separate City savings account from which the City will reimburse McMillin for its construction costs. Upon completion, the park will belong to the City and any remaining fees in the separate account will revert to the City for other uses.

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Labor Code section 1720(a) defines public works as: "Construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds..." Here, the project is construction done under contract. Because the assessed funds were deposited into the coffers of the City, a public entity, these monies are public. Consistent with prior Departmental precedential public works coverage determinations and decisions on appeal,¹ the construction of the park with public funds paid by the City is a public works under Labor Code section 1720 for which prevailing wages must be paid.

Sincerely,



Stephen J. Smith
Director

cc: Daniel Curtin, Chief Deputy Director and Acting Chief, DLSR
Marcy Vacura Saunders, Labor Commissioner
Henry P. Nunn, III, Chief, DAS
Vanessa L. Holton, Assistant Chief Counsel
Cary D. Lowe, Jenkins and Gilchrist

¹ Public Works Coverage Determination #96-006, Department of Corrections - Community Correctional Facilities; Public Works Coverage Decision on Appeal #93-054, Tustin Fire Station; Public Works Coverage Determination #93-012, Wal-Mart Shopping Center, City of Lake Elsinore.